

# Memorandum

Date : **SEP - 5 2008**

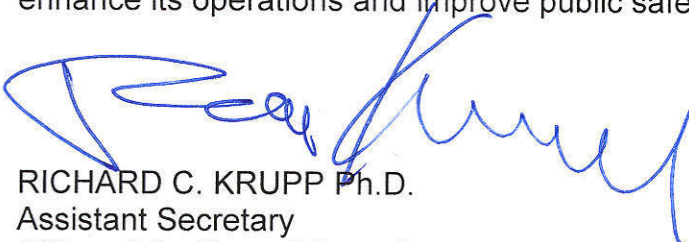
To : Scott Kernan  
Undersecretary Operations (A)  
California Department of Corrections and Rehabilitation

Subject : **PAROLEE DISCHARGE REVIEW AUDIT**

Pursuant to a request from your office, the Office of Audits and Compliance conducted an audit of the parolee discharge review process. After initial preparatory work, the audit officially began on March 11, 2008, and concluded on July 25, 2008. The audit findings revealed violations of the California Penal Code as well as violations of provisions of the California Code of Regulations, Title 15, the Department Operations Manual and Division of Adult Parole Operations (DAPO) Policy Memorandum No. 07-24.

Attached is the final audit report with an executive summary, audit methodology, audit findings, analysis of findings, recommendations, DAPO's response to the recommendations, and follow-up findings. The DAPO already implemented changes to address the findings and is in the final phase of developing new policy to correct deficiencies.

This is the first audit of the parolee discharge review process and the findings provided valuable insight of the process. The findings also identified training needs and provided an opportunity for the DAPO to make policy and procedural changes to enhance its operations and improve public safety.



RICHARD C. KRUPP Ph.D.  
Assistant Secretary  
Office of Audits and Compliance

Attachment

cc: Brett Morgan, Office of the Secretary  
Lee Seale, Office of the Secretary

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PAROLEE DISCHARGE REVIEW  
DIVISION OF ADULT PAROLE OPERATIONS



**FINAL REPORT**

Prepared by:

California Department of Corrections and Rehabilitation's  
Office of Audits and Compliance

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August 2008

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## EXECUTIVE SUMMARY

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The California Department of Corrections and Rehabilitation (CDCR), Office of Audits and Compliance (OAC) conducted a review of adult parolee discharges for the calendar year 2007. The first objective of the review was to determine whether discharges of parolees were completed in accordance with state law and department policies, including Division of Adult Parole Operations (DAPO) Policy No. 07-24 entitled, "Penal Code, Section 3001, Compliance Policy Statement" dated May 15, 2007. The second objective was to identify any area of deficiency relating to the current process of discharge review.

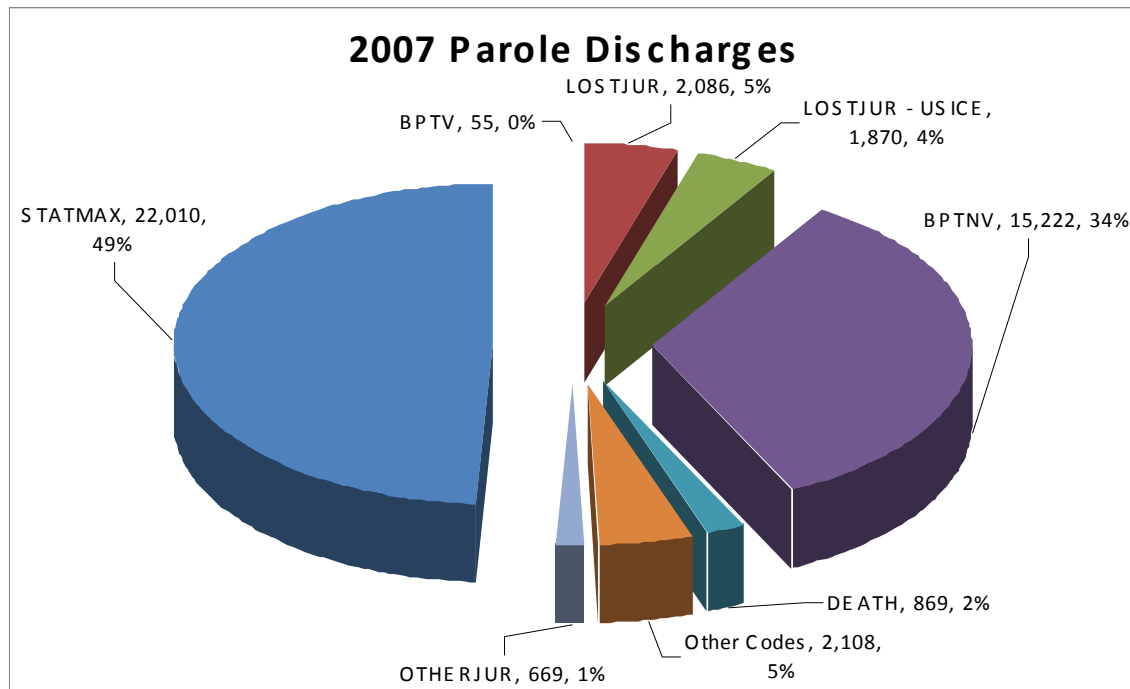
Data obtained from CDCR Offender Information Services Branch (OISB) indicates that 44,889 offenders were discharged from parole in 2007. An offender could have been discharged directly from a CDCR institution, from one of four parole regions where their parole was being served, from a United States Immigration Customs Enforcement (USICE) parole unit, or from an interstate parole unit. Nearly half, or 22,010 of these offenders, served their full term (typically three-years) of parole and thus were discharged because they have reached the statutory maximum period, which is the maximum time the law allows the CDCR to keep an offender on parole based on the commitment offense. The remaining half were discharged for a variety of reasons, including discharges pursuant to Penal Code 3001.

Under Penal Code section 3001, an offender imprisoned for a non-violent felony, as defined by subdivision (c) of Section 667.5, shall be discharged from parole at the completion of 13 months of "continuous parole" (i.e., no interruption by way of suspension or revocation), and an offender imprisoned for a violent felony shall be discharged from parole at the completion of 25 months of continuous parole, unless CDCR makes recommendation and the Board of Parole Hearings (BPH) takes action to retain the parolees for additional supervision. Further, parolees who were retained on parole as the result of a BPH action are entitled to a review by BPH each subsequent year until the BPH discharges them or the statutory maximum period is reached.

Though not required by law, CDCR policy requires, in most cases, the completion of a discharge review in order to determine whether a parolee should be retained on parole or is suitable for discharge. When a discharge review is not completed and submitted in the required time frame, a parolee is discharged by operation of law. This is termed "lost jurisdiction."

Per DAPO policy 07-24, the decision to discharge offenders meeting the "exclusionary criteria" must be made by a parole district administrator. This exclusion criteria includes offenders with a serious or violent commitment offense (or conviction thereof within 10 years), offenders required to register per Penal Code section 290, validated CDCR gang members, and documented street gang members.

**FIGURE 1**



The CDCR maintains data on discharged parolees by grouping the discharges into reason codes. For example, parolees discharged due to statutory maximum are placed in the category of STATMAX (statutory maximum), and those who are discharged under Penal Code 3001 are categorized as BPTV (violent offender), BPTNV (non-violent offender) and LOSTJUR (lost jurisdiction). As discussed earlier, STATMAX cases account for nearly half of 2007 discharges. Approximately one-third of 2007 discharges, or 17,363 offenders, were discharged under reason codes BPTV, BPTNV, and LOSTJUR. These 17,363 offenders were the subject of this review.

### **SCOPE OF REVIEW**

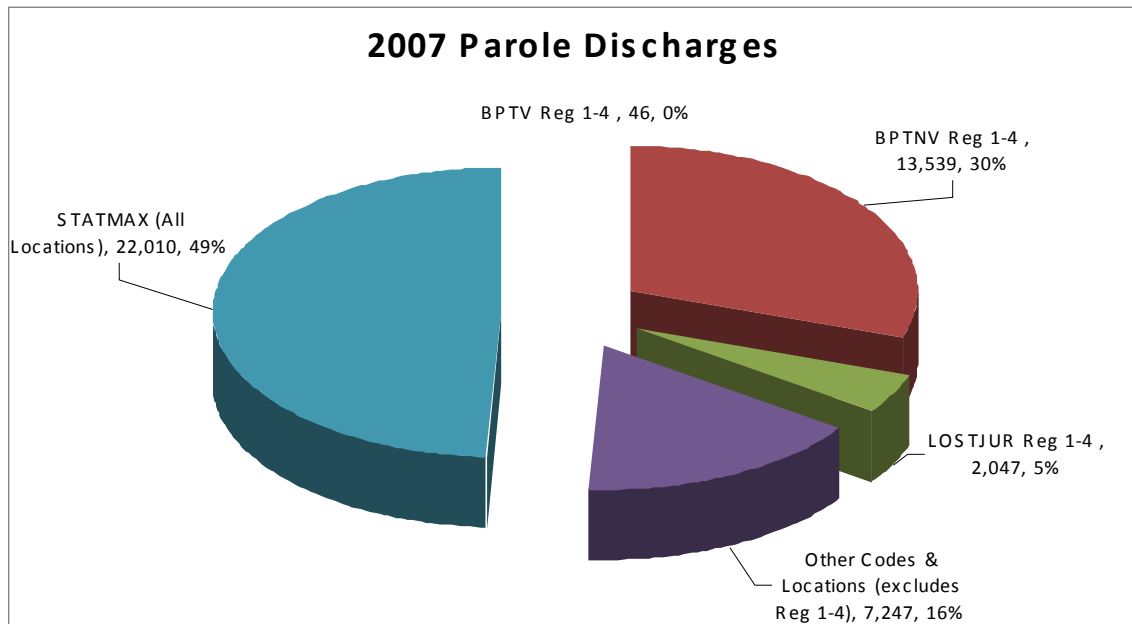
The first phase of the review involved the examination of central files (c-files). OISB provided a listing of parolees discharged during the calendar year 2007 from parole regions I through IV with discharge reason codes BPTV, BPTNV, and LOSTJUR. The discharge listing did not include parolees who were discharged directly from a CDCR institution; those who were discharged from USICE or interstate parole units.

The discharge codes BPTV and BPTNV indicate that a discharge review report was completed and the parolee was discharged from parole supervision by either BPH or DAPO. The discharge code LOSTJUR indicates that a discharge review report was not submitted within the required time frame and the parolee is discharged pursuant to Penal Code section 3001.

The total discharges for 2007 for parole regions I through IV reported in the Draft Report were found to include discharges that occurred prior to 2007. The total

discharged for 2007 reported in this Final Report are updated numbers obtained from OISB on September 2, 2008.

**FIGURE 2**



This review focuses on offenders who were discharged from parole regions I through IV. As such, offenders discharged from other locations (i.e., interstate parole unit, USICE parole unit) were excluded from the sample selection. In order to ascertain the effect of policy 07-24, OAC selected, for its sample of parolee discharges, two months (February and May) preceding and two months (August and November) following the implementation of the policy memorandum. OAC made a judgmental sample selection of 1,128 names from a list of 13,585 parolees discharged in 2007 under reason codes BPTV and BPTNV. The c-files for these parolees were reviewed to determine whether the discharges were completed in accordance with state law and departmental policy.

OAC also made a judgmental sample selection of 306 names from a list of 2,047 parolees discharged in 2007 under reason code LOSTJUR. The OAC reviewed LOSTJUR cases in order to ascertain the reason for lost jurisdiction and to identify the number of violent offenders (Penal Code section 667.5(c)) and serious offenders (Penal Code section 1192.7(c)). The table below outlines the details of the selected sample.

SAMPLE SIZE			
REASON CODE	REGIONS I – IV 2007 DISCHARGES	OAC REVIEWED	PERCENTAGE OF 2007 DISCHARGES
BPTV	46	46	100%
BPTNV	13,539	1,082	8%
<b>BPTV &amp; BPTNV</b>	<b>13,585</b>	<b>1,128</b>	<b>8%</b>
LOST JURS	2,047	306	15%
<b>TOTAL</b>	<b>15,632</b>	<b>1,434</b>	<b>9%</b>

## **PHASE I FINDINGS**

The OAC found that 74 parolee files, or approximately 7 percent of the 1,128 discharges reviewed (reason codes BPTV and BPTNV), illustrated an action or inaction on the part of DAPO that were not in compliance with state law or departmental policy.

Findings were broken down by whether they relate to violent offenders, serious offenders, offenders who meet DAPO exclusionary criteria, or non-violent/non-serious offenders. The significant findings are discussed below:

### **Violent Offenders (Penal Code section 667.5(c))**

- Two parolees discharged at the 13<sup>th</sup> month at the unit level. Pursuant to Penal Code section 3001, violent offenders must be supervised on parole for a minimum of 24 months of continuous parole, unless the BPH, for good cause, waives parole and discharges these offenders.
- Ten parolees discharged at the unit level without the district administrator's review. CRDR Department Operations Manual section 81080.1.1 requires that a district administrator review and approve discharges of offenders with a violent commitment offense.

### **Serious Offenders (Penal Code section 1192.7(c))**

- One serious offender's file contained a discharge review with the district administrator's recommendation to "retain." The discharge review report was not submitted to BPH timely, resulting in a discharge by operation of law.
- Twenty-five serious offenders were discharged at the unit level without the district administrator's review. CDCR Department Operations Manual section 81080.1.1 requires final approval from a district administrator.

### **DAPO Exclusionary Criteria, Policy No. 07-24**

- Twenty-four offenders who meet the DAPO exclusionary criteria outlined in policy no. 07-24 were discharged at the unit level without a district administrator's review.

### **Non-Violent/Non-Serious**

- One non-violent/non-serious offender's file contained a discharge review report with the district administrator's recommendation to "retain." The discharge review report was not submitted to BPH timely, resulting in a discharge by operation of law.
- Three non-violent/non-serious offenders under BPH jurisdiction were discharged by DAPO. Offenders for whom the BPH assumes jurisdiction as the result of a BPH action must be discharged by the BPH.

## Lost Jurisdiction

During 2007, 3,956 offenders (see Figure 1) were discharged due to lost jurisdiction (2,086 under LOSTJUR and 1,870 under LOSTJUR - USICE). This amounts to approximately nine (9) percent of the total discharges.

Among the lost jurisdiction discharges are 2,047 offenders discharged from the four parole regions (see Figure 2). These were the lost jurisdiction discharges from which a sample selection was made. OAC selected 306 lost jurisdiction cases for review in order to identify offenders with violent and serious commitment offense, of which, 23 discharges were determined to be erroneously grouped into the LOSTJUR reason code. These 23 cases were therefore omitted from the sample. The adjusted lost jurisdiction sample size was 283.

Among the 283 lost jurisdiction cases reviewed, 5 were violent offenders and 39 were serious offenders. In approximately 90 percent (255 discharges) of the 283 lost jurisdiction discharges, the lost jurisdiction occurred because a discharge review report was not completed and/or submitted timely. Information in the c-files also suggested that approximately 7 percent (20 discharges) was the result of BPH reinstating parole without time loss and 3 percent (8 discharges) was the result of "court-walkover."

Lost jurisdiction as the result of reinstatement with no time loss occurs when a parolee absconds parole supervision, or is otherwise unavailable for supervision and the agent requests BPH to "suspend" parole. The offender's parole time stops. It will not restart again until the agent requests that parole be reinstated, or the parolee be discharged. Reinstatement requests can be with time loss, which means the time between the suspension and reinstatement is added to the total parole period, or the request can be with no time loss, which means time is not added or there is no interruption. When reinstatement with no time loss causes the period of continuous parole to exceed the statutory period, DAPO loses jurisdiction and the offender is discharged per Penal Code 3001.

Court walkovers occur when offenders are sentenced to state prison; however, the offenders have sufficient "custody credits" that meets or exceeds the mandatory time served. As the result, the offenders are only required to serve the period of parole. The offenders are directed to "walkover" to the nearest parole unit from the court. This is problematic for DAPO since it has no information on these offenders. Consequently, these cases result in discharges due to lost jurisdiction because by the time DAPO receives the necessary parole information, the offenders are already discharged pursuant to Penal Code 3001.

## **PHASE II FINDINGS**

The second phase of this review involved visiting unit parole offices in all four parole regions in order to identify specific areas of deficiency related to the current discharge review process. This critical phase enables OAC to pinpoint specific departmental shortcomings that may be the cause of the findings assessed during



the c-file review. The OAC interviewed unit supervisors at 23 parole offices, examined 163 field files, and evaluated the curriculum at the parole academy. The following are areas of concern:

Training: New agents receive limited training in the area of discharge review. At the academy level, a specific course dedicated to covering discharge review is not included in the curriculum. At the unit level, a formal training program has not been implemented to provide agents opportunity to discuss and seek clarification on changes in policy and procedure.

Written Procedure: DAPO has not implemented a written procedure covering the comprehensive discharge review process. Currently, protocols for discharge review are outlined in the Departmental Operations Manual, Title 15, and multiple policy memorandums to which agents may not have immediate access.

Tracking: Unit Supervisors have the ability to track upcoming discharge reviews by printing a list from the CalParole Tracking System and monitor the parole agents on a regular basis. The CalParole system is a stand-alone computer tracking system where the data is entered manually. CalParole does not have the ability to distinguish between violent, serious or non-violent offenders. Based on the parole unit and field file reviews, it appears that the clerical staff schedules the majority of parolees for a 13<sup>th</sup> month discharge review during the intake process. Therefore, some violent offenders are systematically scheduled for a discharge review one year earlier than required by statute.

Early Submission of Discharge Review for Violent Offenders: Units are submitting discharge reviews for violent offenders at the 13<sup>th</sup> month after the initial parole date. These discharge reviews are not to be completed and submitted until after two years of continuous parole, unless for good cause, DAPO intends to discharge the parolee with BPH approval. Case Records or BPH returned the majority of these discharge reviews, indicating that the reviews were submitted a year early. In some cases, BPH acted to retain the parolees and assumed jurisdiction for subsequent reviews. This creates unnecessary additional workload for the units, case records and BPH.

Communication between Parole Units and Case Records: Case records analysts are provided a list of required upcoming discharge reviews from the Offender Based Information System. The analysts have the discretion of contacting the units to ascertain the status of the discharge review submission. The number of parolees discharged as the result of a discharge review not submitted (lost jurisdiction) can be reduced with better communication between case records and the parole units.

Documentation of Lost Jurisdiction: In cases of lost jurisdiction, an explanatory memorandum or activity report is completed and submitted to the district and regional administrators. This information; however, is not forwarded to case records to be included in the c-files. Since DAPO destroys parolee field files 120 days after the date of discharge, information regarding parole supervision is not sufficiently documented for parolees who are discharged due to lost jurisdiction.

# INTRODUCTION

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In January 2008, the Undersecretary of Operations instructed OAC to conduct a review of parolee discharges, an area of responsibility that falls under DAPO. This review was initiated in response to the shooting death of a parolee in Stockton, California, by San Joaquin County Sheriff's Department deputies.

Richard Krupp, Assistant Secretary, OAC, was tasked to assemble a team to conduct the review. Alberto Caton, Correctional Administrator, OAC, was assigned to provide administrative oversight. Sharon Candalot, Staff Management Auditor, OAC, supervised the day-to-day activities. Sonny Tran, Management Auditor, OAC, and Jason Moyer, Parole Agent II on loan from the Division of Addiction and Recovery Services, conducted the fieldwork.

The objectives of the review were to determine whether DAPO completed parolee discharges in accordance with State law, CDCR regulations and DAPO policies, and to identify specific areas of deficiency or concern related to the current discharge review process.

The fieldwork began on March 11, 2008 and concluded on July 25, 2008. During the course of this review, the team examined c-files at Case Records North, Case Records South, and Archives, interviewed Unit Supervisors and examined parolee field files at various parole offices, and conducted briefings with each of the four Regional Parole Administrators as well as the Undersecretary, Operations of the CDCR. In addition, the team met and solicited feedback from personnel at the Board of Parole Hearings and staff from DAPO Parole Academy.

Although OAC was aware of the "white-out" incident which involved the alleged alteration of a discharge review report, OAC did not make further inquiry into this matter because of an ongoing investigation at the time.

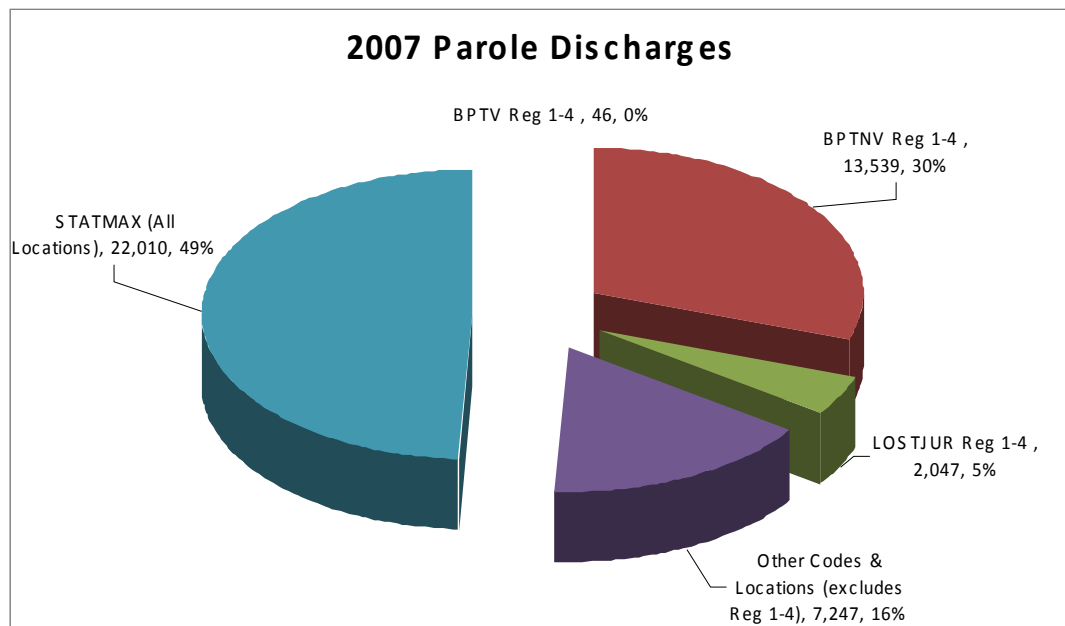
# PHASE I – CENTRAL FILE REVIEW

## I. OBJECTIVE

The objective of Phase I was to determine whether DAPO conducted discharge review in accordance with state law and departmental policy.

## II. METHODOLOGY

**FIGURE 2**



The OAC obtained from OISB a list of parolees who were discharged during the period of January 1 through December 31, 2007. This list was subsequently filtered to include only three categories of discharge reason codes: BPTV, BPTNV, and LOSTJUR. According to data provided by OISB, during calendar year 2007, 15,632 parolees were discharged from parole regions I through IV with reason codes of BPTV, BPTNV, or LOSTJUR (Figure 2). This review focuses on approximately one-third or 35 percent of all 2007 discharges.

2007 Discharges by Codes & Regions						
Regions/Codes	I	II	III	IV	Total	Files Reviewed
BPTV	4	4	23	15	46	46
BPTNV	2,943	1,888	4,449	4,259	13,539	1,082
LOSTJUR	203	162	1,127	555	2,047	306
Total Discharges	3,150	2,054	5,599	4,829	15,632	1,434

OAC reviewed files for all 46 violent offenders (code BPTV) discharged in 2007. OAC made a judgmental sample selection of 1,082 parolees discharged with reason code BPTNV from a list of 13,539. To arrive at the BPTNV sample size of 1,082, OAC first filtered the total discharges to include only discharges made during the months of February, May, August, and November. From there, OAC selected what it deemed to be a representative sample of each of the four regions. The sample size of 1,082 represented approximately 8 percent of 13,539 parolees discharged during the year 2007 with reason code BPTNV.

OAC also made a judgmental sample selection of 306 parolees discharged with reason code LOSTJUR. This sample is arrived by using the same methodology used for the BPTNV sample size. The sample size of 306 represented approximately 15 percent of 2,047 parolees discharged during the year 2007 with reason code LOSTJUR.

Parolee c-files discharged with reason code BPTV or BPTNV were reviewed to assess whether the discharges were in compliance with applicable state law and departmental policy, including the DAPO Policy No. 07-24 dated May 15, 2007. The pertinent information obtained from the c-files was: the commitment offense to determine whether it was a violent offense or a serious offense; initial parole date; discharge review date; discharge date; sex offender registration requirement; validated gang membership; conviction of a violent or serious offense within ten years prior to the discharge review date; Discharge Review Report (CDC Form 1502) and action taken by BPH.

For offenders discharged with reason code LOSTJUR, the main objective was to identify violent and serious offenders and to ascertain the reason for lost jurisdiction.

### **III. APPLICABLE STATE LAWS AND CDCR REGULATIONS**

#### Penal Code section 3000(b)(1)

Pursuant to Penal Code section 3001, subsection (b)(1), BPH can, for good cause, waive parole and discharge an offender from the jurisdiction of the Department at any time during the parole period. Under this provision, DAPO may recommend any parolee for discharge consideration prior to the statutory period of parole defined in PC, Section 3001.

#### Penal Code section 3001(d)

This Penal Code section states: “In the event of a retention on parole, the parolee shall be entitled to a review by the parole authority each year thereafter until the maximum statutory period of parole has expired.” The term “parole authority” refers to BPH.

#### Penal Code section 3001(a)

This Penal Code section mandates that a parolee whose commitment offense was not a violent felony be discharged from parole within 30 days after one year of continuous parole, unless CDCR files a request to and receives authorization from BPH to retain said parolee for further parole supervision. Further, this section mandates that a parolee whose commitment offense was a violent felony be discharged from parole within 30 days after two years of continuous parole, unless CDCR retains said parolee with BPH authorization. Continuous parole means BPH has not interrupted the parole period by suspending or revoking a parolee who has been found guilty of an offense.

Specifically, this section states:

“Notwithstanding any other provision of law, when any person referred to in paragraph (1) of subdivision (b) of Section 3000 who was not imprisoned for committing a violent felony, as defined in subsection (c) of Section 667.5, has been released on parole from the State prison, and has been on parole continuously for one year since release from confinement, within 30 days, that person shall be discharged from parole, unless the Department of Corrections recommends to the Board of Prison Terms that the person be retained on parole and the board, for good cause, determines that the person will be retained. Notwithstanding any other provision of law, when any person referred to in paragraph (1) of subdivision (b) of Section 3000 who was imprisoned for committing a violent felony, as defined in subdivision (c) of Section 667.5, has been released on parole from the State prison for a period not exceeding three years and has been on parole continuously for two years since release from confinement,...the department shall discharge, within 30 days, that person from parole, unless the department recommends to the board that the person be retained on parole and the board, for good cause, determines that the person will be retained...”

#### Department Operations Manual (DOM), Section 81080.1.1

DOM section entitled, “Report,” requires a discharge review report be completed after one year of continuous parole for non-violent offenders and after the completion of two years of continuous parole for violent offenders. Specifically, this section states: “A Discharge Review Report shall be

prepared and submitted to the unit supervisor at least 20 days prior to completion of one, two, three, five, or seven years of continuous parole, based on commitment category...”

DOM section entitled, “Unit Supervisor,” states in part: “...Unit Supervisor shall include a recommendation to either discharge or retain on parole supervision. Submit any Discharge Review Report recommending “retain on parole supervision” and any report requiring BPH decision to BPH.”

DOM section entitled “Parole Administrator” requires the parole administrator to take action and submit any discharge review report recommending retention to BPH.

#### DAPO Policy No. 07-24

This policy memorandum, dated May 15, 2007, requires the parole administrator to review and approve discharges for specific offenders. The memo states:

“Effective immediately, all non-violent/non-serious eligible offenders, not identified in the exclusionary criteria below, shall be discharged in compliance with PC, Section 3001. Those offenders excluded from discharge consideration at the Unit level are:

- Offenders with a Serious or Violent controlling or non-controlling offense as defined in PC, Section 667.5l or 1192.7l.
- Offenders with a prior conviction for a Serious or Violent offense as defined in PC, Section 667.5l or 1192.7l in the last ten (10) years.
- Offenders required to register in accordance with PC 290.
- Offenders classified as a validated CDCR gang member, associate, affiliate, or inactive.
- Offenders documented as being associated with a gang or gang activity from an allied law enforcement agency during the period of review.

If the Unit recommendation is to retain, the report shall be forwarded to the DA for consideration. In the event that there is a difference in opinion regarding an otherwise eligible offender, the decision by the DA to discharge will stand as the final decision. The DA shall have the authority to discharge any offender who has been on continuous parole, with no prior BPH actions. If the DA elects to recommend retention on parole, the comprehensive discharge review report shall be forwarded to the BPH for final action.”

Based on this policy the district administrator is required to review the discharge review reports completed for the violent offenders; serious offender and the offenders meeting the above DAPO exclusionary criteria.

#### IV. FINDINGS

##### Definition and Category

For this review, OAC defines a finding as a violation of state law or departmental policy during the process of discharge or retention of a parolee. By this definition, all discharges of parolees due to lost jurisdiction are considered findings since a discharge review report was not completed in accordance with DOM section 81080.1.1. In addition, “violent” means commitment offense under Penal Code section 667.5, subsection (c), “serious” means commitment offense under Penal Code section 1192.7, subsection (c), and “exclusionary” refers to offenders whose discharge review must be reviewed by a parole administrator, per DAPO policy 07-24.

##### AGGREGATE FINDINGS

TABLE 1						
row	SUMMARY OF FINDINGS BY REGION	I	II	III	IV	TOTAL
	<b>Violent Offenders – PC 667.5(c)</b>					
a	Discharged at 13 <sup>th</sup> month ***			2		2
b	Unit discharged without DA review	1	1	4	4	10
c	DR submitted to BPH without DA review				1	1
d	DR submitted to BPH a year early			2		2
e	<b>Total Violent</b>	<b>1</b>	<b>1</b>	<b>8</b>	<b>5</b>	<b>15</b>
	<b>Serious Offenders – PC 1192.7(c)</b>					
f	Retention submitted late. Discharged				1	1
g	Unit discharged without DA review	6	2	4	13	25
h	Retention without DA review	1			1	2
i	<b>Total Serious</b>	<b>7</b>	<b>2</b>	<b>4</b>	<b>15</b>	<b>28</b>
	<b>DAPO Exclusionary Criteria (07-24)</b>					
j	Discharges after 5/07 without DA review	4	5	8	7	24
	<b>Non-Violent/Non-Serious</b>					
k	Retention submitted late. Discharged			1		1
l	BPH jurisdiction, discharged by DAPO***		1		2	3
m	Submitted to BPH in error (non-retention)				2	2
n	Retention after 5/07 without DA review		1			1
o	<b>Total Non-Violent/Non-Serious</b>		<b>2</b>	<b>1</b>	<b>4</b>	<b>7</b>
p	<b>Total Findings (BPTV &amp; BPTNV)</b>	<b>12</b>	<b>10</b>	<b>21</b>	<b>31</b>	<b>74</b>
q	<b>Discharges Reviewed (BPTV &amp; BPTNV)</b>	<b>235</b>	<b>154</b>	<b>376</b>	<b>363</b>	<b>1,128</b>
r	<b>% Findings to Files Reviewed</b>	<b>5%</b>	<b>6%</b>	<b>6%</b>	<b>9%</b>	<b>7%</b>
***Not in compliance with California statute. DR = Discharge Review Report DA = District Administrator						

TABLE 2						
row	SUMMARY OF FINDINGS BY REGION	I	II	III	IV	TOTAL
	<b>Lost Jurisdiction</b>					
a	DR-serious for retention submitted late	1				1
b	No DR (violent)			2	3	5
c	No DR (serious)	4	5	15	14	38
d	No DR (DAPO exclusionary)	1	4	4	4	13
e	No DR (non-violent/non-serious)	19	33	110	54	216
f	No DR (BPH jurisdiction)				1	1
g	DR to discharge submitted late	5	2		2	9
h	<b>Total Lost Jurisdiction</b>	<b>30</b>	<b>44</b>	<b>131</b>	<b>78</b>	<b>283</b>
i	<b>Percentage of violent offenders (5 of 283)</b>					<b>2 %</b>
j	<b>Percentage of serious offenders (39 of 283)</b>					<b>14%</b>

As shown in Table 1, OAC reviewed 1,128 discharges with reason codes BPTV and BPTNV, of which, 74 discharges (7 percent) illustrated an action or inaction on the part of DAPO that violated state statute or CDCR policy.

As shown in Table 2, OAC reviewed 283 cases of lost jurisdiction, of which, 5 cases (2 percent) were determined to be lost jurisdiction of violent offenders, and 39 cases (14 percent) were determined to be lost jurisdiction of serious offenders.

In addition, OAC found numerous discharge-reason coding errors during the c-file review. For example, a parolee discharge was coded BPTNV when in fact the parolee's time had met statutory maximum, therefore the discharge reason code should have indicated "statutory maximum" or reason code STATMAX. The discharge coding errors are not included in the findings listed above.

The findings are separated according to whether the action or inaction of DAPO violated state law or CDCR policy.

## **NONCOMPLIANCE, CALIFORNIA STATUTE**

### **A. Discharging Violent Offenders One Year after Continuous Parole.**

- Two violent offenders were discharged by DAPO from Parole Region III (Table 1, row a) after only one year of continuous parole.

Pursuant to Penal Code section 3000, subsection (b)(1), BPH can, for good cause, waive parole and discharge an offender from the jurisdiction



of the department at any time during the parole period. Under this provision, DAPO may recommend any parolee for discharge consideration prior to the statutory period of parole defined in Penal Code section 3001. However, DAPO does not have the authority to discharge violent offenders from parole supervision earlier than 24 months of continuous parole without the approval of BPH.

#### **B. DAPO Discharged Parolees Who Were Under BPH Jurisdiction**

- Three parolees were discharged from Region II and IV (Table 1, row I) without BPH review and approval. The parole units had completed the discharge review report discharging the parolee but failed to submit the review to BPH for final decision. The three parolees were discharged at the unit level; however, based on prior BPH action of revocation or retention during the parole period, BPH had jurisdiction and the final authority to discharge.

These discharges by DAPO were not in compliance with Penal Code section 3001, subsection (d), which requires the discharge for offenders under BPH jurisdiction be reviewed and approved by BPH.

#### **NONCOMPLIANCE, CDCR POLICY**

##### **A. Violent, Serious, and Exclusionary Offenders Requiring District Administrator's Review**

- Ten violent offenders (Table 1, row b), 25 serious offenders (Table 1, row g), and 24 offenders meeting DAPO exclusionary criteria (Table 1, row j) were discharged from parole without the review and/or approval of the DA.

DAPO policy 07-24 authorizes the unit supervisors to discharge non-violent/non-serious offenders. However, discharges of violent, serious, and exclusionary offenders require the review and approval of a district administrator. In examining these cases, OAC found no signature in the "District Administrator" section of the discharge review report indicating a review and/or approval of the discharge.

##### **B. Violent Offender Discharge Review Report Submitted to BPH Without District Administrator's Review**

- A discharge review report for a violent offender (Table 1, row c) was submitted to BPH for discharge consideration without the district administrator's review. In this case, BPH had taken jurisdiction as the result of a previous action. DAPO (Region IV) submitted the discharge review report with a recommendation to discharge at the 25th month after the initial date of parole. A district administrator, however, did not review the report.

DAPO policy 07-24 requires that a district administrator review the discharge of violent offenders. Although BPH had jurisdiction in this case, DAPO submitted the discharge review report to BPH recommending discharge. Given the opportunity to review, the district administrator may have disagreed with the unit recommendation, and prior to submitting the report to BPH, make the final DAPO recommendation to retain the parolee for further supervision. The parolee was appropriately discharged by BPH.

### **C. Discharge Review for Violent Offenders Submitted to BPH Early**

- Region III submitted discharge review reports for two violent offenders (Table 1, row d) to BPH at the 13th month of continuous parole.

According to the DAPO informational memorandum dated August 28, 2007, which provided clarification for policy 07-24, discharge reviews for violent offenders are not required until after the completion of two continuous years on parole. This memorandum also states that discharge review reports received after only one continuous year of parole will be returned to the sending unit.

### **D. Discharge Review Requesting Retention Submitted Late**

- One serious offender from Region IV (Table 1, row f), and one non-serious offender from Region III (Table 1, row k) were discharged when DAPO intended to retain the parolees for additional supervision. The respective supervising parole units had made assessment of the parolees' adjustment and had deemed further supervision was warranted.

DAPO completed the discharge reviews on the two parolees with the intent to retain the parolees for further supervision. However, the reports were not submitted to BPH timely. The two parolees were discharged by California statute.

DOM section 81080.1.2 specifies that the parole units are to initiate a discharge review 20 days before 1 year of continuous parole for non-violent offenders. In addition, by statute, DAPO has an additional 30 days after 1 year of continuous parole to submit a retention request to BPH.

### **E. DAPO Retained Parolees without District Administrator's Review**

- DAPO retained three parolees for additional supervision (Table 1, row h and n). The discharge review reports

recommending retention were not reviewed by a district administrator prior to the submission to BPH.

Policy 07-24 states: "If the Unit recommendation is to retain, the report **shall** be forwarded to the District Administrator (DA) for consideration."

#### **F. Discharge Review for Offenders not under BPH Jurisdiction submitted to BPH**

- Two discharge reviews for non-violent offenders were submitted to BPH in error (Table 1, row m). The discharge review reports indicated that DAPO intended to discharge these offenders. However, the discharge reviews were erroneously forward to BPH, who took action to retain said parolees. BPH subsequently discharged the two offenders after DAPO informed BPH that the reports were submitted in error.

According to DAPO policy 07-24, the district administrator has the authority to discharge any offender who has been on continuous parole with no prior BPH actions.

#### **G. Discharge due to Lost Jurisdiction**

- OAC reviewed 283 lost jurisdiction discharges (Table 2). The following are additional details:
  - One serious offender's file contained a discharge review report with a final recommending for retention, but the case was not submitted to BPH timely.
  - Five violent offenders had no discharge review.
  - Thirty-eight serious offenders had no discharge review.
  - Thirteen DAPO exclusionary offenders had no discharge review.
  - Two hundred sixteen non-violent/non-serious offenders had no discharge review.
  - One offender under BPH jurisdiction had no discharge review.
  - Nine offenders had a discharge review report in their file, but the report was not submitted to case records timely.

DOM, Section 81080.1.1, requires DAPO to complete a discharge review at the conclusion of two years of continuous parole for violent offenders and one year for non-violent offenders.

#### **EVALUATION OF THE EFFECT ON DISCHARGES DUE TO DAPO POLICY NO. 07-24**

According to DAPO, the intent of policy 07-24 was to bring the division into compliance with state law. However, the majority of unit supervisors and one of the regional administrators that OAC spoke to stated that the policy carries an underlying implication for the units to discharge more offenders from parole. The unit supervisors stated that they felt compelled to discharge offenders who they would otherwise retain on parole absent the release of policy 07-24.

Based on data obtained from OISB, the number of discharges under reason codes BPTV and BPTNV almost doubled in August and November 2007 compared to February and May 2007. According to the data, there were 2,923 BPTNV discharges in August and November, comparing to 1,494 BPTNV discharges in February and May. Likewise, there were 29 BPTV discharges in August and November, comparing to 17 BPTV discharges in February and May.

# PHASE II – PAROLE UNIT REVIEW

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## I. OBJECTIVE

The objective of Phase II was to identify areas of deficiency related to the current discharge review process. The full measure of this effort will help CDCR pinpoint problem areas. This provides a more comprehensive and accurate picture of the findings of which DAPO may use in its corrective action plan.

## II. METHODOLOGY

Based on the findings accumulated during Phase I of the review, OAC selected 23 parole units for review. Each individual unit was selected because it either had a high percentage of discharges due to lost jurisdiction or the OAC determined that a significant finding pertaining to the discharge of violent or serious offenders was associated with that unit. Below is a list of the parole units selected for this portion of the review.

REGION I	REGION II	REGION III	REGION IV
Stockton 2	Hayward	San Gabriel Valley 1	Ontario 1
Modesto 2	Concord 1	North Long Beach	San Bernardino 4
Hanford	Redwood City	Inglewood 2,3	Riverside 4
Bakersfield 5	San Jose 3	South Central 4,5	Moreno Valley 4,5
Sacramento Natomas	Salinas 2	Exposition Park 1	Oceanside

OAC created a questionnaire based on the findings of Phase I. The questionnaire included the following areas: parole agent training, written procedure, supervisory tracking, field administrator approval, case records function, and lost jurisdiction.

OAC met with the unit supervisor at the above parole unit offices and conducted a field file review of violent and serious offenders currently on parole to determine if the units were following the proper procedures for the discharge reviews.

## III. DEFICIENCIES OR CONCERNS

During the evaluation of the parole units, OAC identified five areas of deficiencies.

### Training and Written Procedures

Parole agents receive limited training in the area of discharge review. All 23 unit supervisors interviewed stated that agents do not undergo a

formalized training program. Training is conducted during monthly unit meetings.

At the parole agent academy, the topic of discharge review is broadly covered in courses dealing with caseload management and report writing. The curriculum at DAPO parole academy does not include a course dealing with significant aspects of discharge review, such as controlling and non-controlling offenses, serious and violent commitment offenses, and the concept of continuous parole. OAC found during the unit visits that there is a lot of confusion with the parole agents and unit supervisors regarding these particular issues.

Further, DAPO has not established a standard written procedure to aid agents in completing discharge reviews. Several unit supervisors stated that discharge review reports submitted for their review often contain insufficient information due to a lack of written protocol. Based on the lack of written discharge review procedures, parole agents, unit supervisors and parole administrators are receiving training from seasoned DAPO personnel. The discharge review process among the regional parole units lacks consistency.

#### Submission of Discharge Review for Violent Offenders

The OAC reviewed 98 violent offenders' field files and 65 serious offenders' field files.

While no significant issue was noted relative to the field files of serious offenders, OAC observed a trend with the submission of discharge review for violent offenders. Forty of the 98 (40 percent) field files of violent offenders contained documentation indicating that a discharge review report was prepared and submitted at the 13th month, or at the conclusion of one year continuous parole. The 40 discharge review reports submitted to Case Records or to BPH included 37 retention requests and 3 discharge recommendations.

The three discharge review report submitted to BPH recommending discharge of a violent parolee at the 13th month were returned to the respective parole unit, attached with a note stating that the discharge reviews were submitted one year early. However, for the 37 retention requests that were submitted to BPH at the 13th month, BPH acted to retain 11 parolees, acquiring jurisdiction for subsequent year(s). The remaining 26 were returned either by BPH or Case Records.

Penal Code section 3000, subsection (b)(1) allows BPH to, for good cause, waive parole and discharge offenders, including those who fall under the legal definition of "violent," from the custody of CDCR. However, absent the "good cause," violent offenders are to be supervised for 24 months of

continuous parole before a discharge review is conducted to determine whether further supervision is needed or that discharge is warranted.

Requests for retention at the 13th month are unnecessary since DAPO will not lose jurisdiction on violent offenders until the 25<sup>th</sup> month of continuous parole. Submitting a discharge review report to BPH requesting retention at the 13th month may result in the transferring of jurisdiction. That is, the BPH gains final authority on the discharge of the parolees.

Based on information gathered during the interviews with unit supervisors, coupled with hand-written notes attached to the discharge review reports in the filed files, OAC determined that clerical staff, parole agents, unit supervisors and parole administrators are not adequately trained to recognize commitment offenses considered violent, as defined by Penal Code section 667.5, subsection (c) versus those considered serious, as defined by Penal Code section 1192.7, subsection (c). The ability to identify violent and serious offenses would help prevent erroneous early submission of discharge review reports for violent offenders.

OAC found that clerical staff schedules most violent offenders for a 13th month discharge review. Parole agents conduct a discharge review report at the 13th month and the reports are subsequently reviewed by the unit supervisor and district administrator. The reports are submitted to case records for processing. A significant number of unit supervisors stated that to avoid discharges due to lost jurisdiction, discharge reviews are submitted for all offenders at the 13th month of continuous parole.

#### Communication between Parole Units and Case Records

Case Records Analysts are provided with a list of required upcoming discharge reviews. According to Case Records desk procedure, the analysts have access to the c-files of the parolees at least five days prior to the discharge date. If a discharge review report has not been submitted for certain parolees, the analysts have the discretion of contacting the units to ascertain the status of the discharge review report submission.

According to 90 percent of the unit supervisors interviewed, the units do not receive a call or an email from case records advising the unit that discharge review reports for particular parolees have not been received by case records. A reminder by the analysts provides the units an opportunity to complete a report or prepare a "Miscellaneous Decision" to prevent a discharge due to lost jurisdiction. The number of parolees discharged due to lost jurisdiction may be reduced with better communication between case records and the parole units.

### Documentation of Lost Jurisdiction

In cases of lost jurisdiction, an explanatory memorandum or an "Activity Report" is prepared (in lieu of a discharge review report) by the parole agent or unit supervisor and submitted to the district and regional administrators. This information however, is not forwarded to case records to be included in the c-files. Since DAPO destroys parolee field files 120 days after the date of discharge, information regarding parole adjustment is not sufficiently documented, absent a discharge review report, for parolees who are discharged due to lost jurisdiction. If questions or concerns are raised regarding the parole adjustment of these parolees, it would be difficult to obtain the necessary information.

The Department Operations Manual requires a discharge review report be completed after one year of continuous parole for serious or non-violent offenders and after the completion of two years of continuous parole for violent offenders.

### Tracking System

Unit supervisors have the ability to track upcoming discharge reviews by printing a list from the CalParole Tracking System and monitor the parole agents on a regular basis. CalParole is a stand-alone tracking system where the data is entered manually. CalParole does have an identifier to differentiate violent or serious offenders. The majority of parolees are scheduled for a 13th month discharge review, which means that some violent offenders are systematically scheduled for discharge review 12 months earlier than required. Additional training is needed for clerical staff entering data into CalParole at the parole units.



## RECOMMENDATIONS

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OAC case study of the parolee discharges and the subsequent interaction with the parole units revealed multiple shortcomings. OAC offers the following recommendations:

1. The Department needs to incorporate a more comprehensive training program both at the parole academy and at the units. The academy curriculum should be modified to include more hours spent on the process of discharge review. According to academy staff, agents attending the parole academy currently receive approximately six hours of training on discharge review. In addition, more training is needed at the unit level. The time allocated for the unit monthly meeting is insufficient for discussion on changes in policies and other issues pertaining to parole.

### DAPO Response

DAPO agrees that additional unit training should occur when new policy and procedures are disseminated to the field. Additionally, this review, coupled with the findings provided by the Bureau of State Audits, indicates that unit support staff and case records require training in the discharge process.

### OAC Comment

OAC will make assessment of this corrective action during its follow-up review.

2. The units need to be instructed to not submit a discharge review report for violent offenders at the 13th month to case records or BPH unless the units have “good cause” to discharge the violent offenders after one year of continuous parole. Retention requests are unnecessary. Submission of discharge review reports for violent offenders prior to the 24<sup>th</sup> month of continuous parole creates additional workload for the units as well as case records since the discharge reviews are not processed and are returned to the units.

### DAPO Response

After the initial release of the May 15, 2007 Policy Memorandum, the field raised several questions relative to the policy and procedures. In response, DAPO generated an Informational Memorandum and released it to the field on August 28, 2007. This particular issue was addressed on page two of this Informational Memorandum as follows:

*For parolees who have a controlling case defined as violent, pursuant to PC, Section 667.5(c), is it necessary to submit a discharge review report upon completion of one continuous year of parole?*

No. Violent offenders as defined in PC, Section 667.5(c) *who were released on parole for three years* do not require a discharge review to be completed until they have completed *two continuous years* on parole. Violent offenders, as defined in PC, Section 667.5(c), *who were released on parole for five years or longer*, do not require a discharge review until they have completed *three continuous years* on parole. Discharge review reports received after only one continuous year of parole will be returned to the sending unit.

### OAC Comment

Based on OAC review of parolee field files, parole units are still submitting discharge reviews recommending retention for violent offenders at the 13th month. The basis for this recommendation is that DAPO is completing and submitting discharge reviews at the 13th month for violent offenders recommending retention which is unnecessary and becomes a work load issue. In addition, these actions often result in BPH gaining jurisdiction of violent offenders.

3. DAPO should establish a comprehensive written protocol which provides standard procedures on the discharge review. This protocol should include: what information to include in the discharge review report; how to identify violent offenders; instruction on which cases can be signed off by the unit supervisors; which cases need to be forward to the district administrator and which case are to be forwarded to BPH. This written procedure should also incorporate pertinent state law and CDCR policy.

### DAPO Response

DAPO concurs with this recommendation and is in the process of developing and disseminating the following documents:

- Discharge Policy and Procedures – This comprehensive document will delineate the entire discharge process to include, but not limited to; statutory authority, Unit Supervisor authority, District Administrator authority, Discharge Review Report content, considerations when recommending discharge, Discharge Review Due date and Controlling Discharge Date determination, unit tracking, and a simple matrix to be used as a reference guide for determining discharge authority.
- Detailed regulations for incorporation into the California Code of Regulations, Title 15, Division 3 relative to Discharge Reviews.
- A Field Agent Guide that will reference responsibilities relative to the discharge review process for the parole agent. This Field Agent Guide will be an abbreviated version of the policy, specific to the parole agent's duties in this process.
- DOM Revision – DOM, Section 81080, which addresses the discharge review process, is out of date and requires revision. Once the

regulations have been promulgated, the DOM section should be revised.

#### OAC Comment

OAC is satisfied with DAPO's plan to implement a comprehensive written directive on the discharge review process.

4. Since the process of discharge review is the responsibility of both the parole units and case records, these offices should establish better communication and a process to eliminate the numerous cases of lost jurisdiction. Although the submission of the discharge review report is the responsibility of the parole units, case records can help prevent discharges due to lost jurisdiction by notifying the units of imminent drop-offs.

#### DAPO Response

DAPO concurs with the recommendation and has initiated several procedures to drastically reduce lost jurisdiction cases. These procedures include:

- The inclusion of a Unit Tracking Log for Discharge Review Reports that are mailed to Case Records for processing. Unit Supervisors would have the ability to compare the tracking log to the Discharge Review Due reports they generate to ensure the reports have been submitted at the unit level.
- Development of a database for use by Case Records staff which will allow them to electronically track Discharge Review Reports received for processing. Reports not received within 20 days of the end of the 13th, 25th, or 37th month of continuous parole shall generate a compliance report to be distributed to the appropriate Regional Parole Administrator (RPA). The RPA will contact the assigned parole unit directing them to expedite a Discharge Report. As a fail safe, any Discharge Review Report not received at Case Records within ten days of the noted periods shall generate a compliance report to be distributed to the Director and Deputy Director of DAPO, who will then ensure unit compliance.
- Parole Administrators are currently temporarily assigned to each Case Records unit. Case Records staff is to notify the Parole Administrator of any case who is within five days of potential LOST JURIS. The Parole Administrator will take the necessary steps to immediately generate a report to either discharge or recommend retain. This step will remain in effect until the database is utilized by both case records locations and staff has been trained in the use of the reports to monitor cases.

### OAC Comment

The OAC is satisfied with steps taken by DAPO to reduce and prevent discharges due to lost jurisdiction.

5. When parolees are discharged due to lost jurisdiction, a copy of the explanatory Activity Report (which includes documentation of parole period) or the memorandum of explanation should be forwarded to case record for inclusion into the c-files. Additionally, the parole agents and unit supervisors should be held accountable for failure to complete discharge reviews timely.

### DAPO Response

DAPO partially concurs. As the OAC noted, the internal discharge codes BPTV, BPTNV and LOSTJUR are all codes used by CDCR to code “discharge by operation of law.” The internal codes are all management tools to monitor our processes. The justifications requested from the field are an effort to understand why the LOSTJUR code was utilized. This request for justification does not diminish the fact that the discharge was still in accordance with statute. As such, the justification memorandum would not be appropriate for incorporation into the c-file. However, DAPO concurs that this memorandum could be the basis for possible corrective action when it is determined staff negligence, and not staff error, the miscoding of commitment offense, lost discharge review reports, or other administrative, or procedural errors was not the primary reason a case was lost due to operation of law.

### OAC Comment

The c-files for approximately 90 percent of the offenders discharged under reason code LOSTJUR in our sample contained insufficient information regarding the offenders’ parole adjustment. These c-files do not provide information on whether the offenders had undergone any type of parole assessment. While OAC agrees with DAPO that discharges due to lost jurisdiction is still in accordance with statute, OAC contends that a portion of offenders discharged due to lost jurisdiction may have been retained on parole had the respective units conducted a discharge review.

## GLOSSARY

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<b>BPH</b>	Board of Prison Hearings
<b>BPTNV</b>	Reason code used for discharge of non-violent offender
<b>BPTV</b>	Reason code used for discharge of violent offender
<b>CDC</b>	California Department of Corrections
<b>CDCR</b>	California Department of Corrections and Rehabilitation
<b>c-file</b>	Central File
<b>DAPO</b>	Division of Adult Parole Operations
<b>DOM</b>	Departmental Operations Manual
<b>LOSTJUR</b>	Reason code used for discharge due to lost jurisdiction
<b>OAC</b>	Office of Audits and Compliance
<b>OISB</b>	Offender Information Services Branch
<b>STATMAX</b>	Statutory Maximum
<b>USICE</b>	United States Immigration Customs Enforcement

## **ATTACHMENT 1**

### **Division of Adult Parole Operations Response to Recommendations Office of Audits and Compliance – Parolee Discharge Review**

The Division of Adult Parole Operations (DAPO) has received and reviewed the Preliminary Draft Report prepared by the California Department of Corrections and Rehabilitation (CDCR), Office of Audits and Compliance (OAC). The Preliminary Draft Report noted five recommendations for DAPO to consider improving the policy and procedures for the Discharge Review process. DAPO has addressed these recommendations below.

***1. The Department needs to incorporate a more comprehensive training program both at the parole academy and at the units. The academy curriculum should be modified to include more hours spent on the process of discharge review. According to academy staff, agents attending the parole academy currently receive approximately six (6) hours on training on discharge review. In addition, more training is needed at the unit level. The time allocated for the unit monthly meeting is insufficient for discussion on changes in policies and other issues pertaining to parole.***

DAPO agrees that additional Unit training should occur when new policy and procedures are disseminated to the field. Additionally, this review, coupled with the findings provided by the Bureau of State Audits, indicates that unit support staff and Case Records require training in the discharge process.

***2. The units need to be instructed to not submit a Discharge Review Report for Violent offenders at the 13<sup>th</sup> month to Case Records or the BPH. Retention requests are unnecessary. Additionally, this creates additional workload for the units as well as Case records since the DR are not processed and are returned to the units. Early discharges of Violent offenders are a violation of State laws and may result in legal actions.***

After the initial release of the May 15, 2007 Policy Memorandum, the field raised several questions relative to the policy and procedures. In response, DAPO generated an Informational Memorandum and released it to the field on August 28, 2007. This particular issue was addressed on page two of this Informational Memorandum as follows:

*For parolees who have a controlling case defined as violent, pursuant to PC Section 667.5(c), is it necessary to submit a discharge review report upon completion of one continuous year of parole?*

No. Violent offenders as defined in PC Section 667.5(c) *who were released on parole for three years* do not require a discharge review to be completed until they have completed *two continuous years* on parole. Violent offenders, as defined in PC Section 667.5(c), *who were released on parole for five years or longer*, do not require a discharge review until they have completed *three continuous years* on parole. Discharge review reports

received after only one continuous year of parole will be returned to the sending unit.

DAPO disagrees with this assertion that the early discharge of violent offenders, or any offender for that matter, is a violation of state law. On the contrary, this provision is built into statute and is the premise by which Earned Discharge would operate.

Specifically, Penal Code Section 3000 (b)(1) states, *“At the expiration of a term of imprisonment of one year and one day, or a term of imprisonment imposed pursuant to Section 1170 or at the expiration of a term reduced pursuant to Section 2931 or 2933, if applicable, the inmate shall be released on parole for a period not exceeding three years, except that any inmate sentenced for an offense specified in paragraph (3), (4), (5), (6), (11), (16), or (18) of subdivision (c) of Section 667.5 shall be released on parole for a period not exceeding five years, **unless in either case the parole authority for good cause waives parole and discharges the inmate from the custody of the department.**”*

DAPO concurs that the authority to approve an early discharge is the sole jurisdiction of the Board of Parole Hearings. Per state law and regulation, DAPO staff must initiate the request for early discharge. Furthermore, DAPO is not implying that this was the justification used in the cases noted, but rather pointing out that it is inaccurate to state such a submission is in violation of the law.

**3. DAPO should establish a written protocol, which provides standard procedures on the discharge review. This protocol should include: what information to include in the Discharge Review Report; how to identify Violent offenders; provide instruction on which cases can be signed off by the Unit Supervisors; which cases need to be forward to the District Administrator and which case are to be forwarded to the BPH.**

DAPO concurs with this recommendation and is in the process of developing and disseminating the following documents:

- Discharge Policy and Procedures – This comprehensive document will delineate the entire discharge process to include, but not limited to; statutory authority, Unit Supervisor authority, District Administrator authority, Discharge Review Report content, considerations when recommending discharge, Discharge Review Due date and Controlling Discharge Date determination, unit tracking, and a simple matrix to be used as a reference guide for determining discharge authority.
- Detailed regulations for incorporation into the California Code of Regulations, Title 15, Division 3 relative to Discharge.
- A Field Agent Guide that will reference responsibilities relative to the discharge process for the parole agent. This Field Agent Guide will be an abbreviated version of the policy, specific to the parole agent's duties in this process.
- Department Operations Manual (DOM) Revision – DOM Section 81080, which addresses the discharge process, is out of date and requires revision.

Once the regulations have been accepted, the DOM revision for this section can be submitted through the review process for incorporation.

***4. Since the process of discharge review is the responsibility of both the parole units and Case Records, these subdivisions should establish better communication and a process to eliminate the numerous cases of Lost Jurisdiction. Although the submission of the DR is the responsibility of the parole units, Case Records can help prevent Lost Jurisdiction by notifying the units of potential drop-offs.***

DAPO concurs with the recommendation and has initiated several procedures to drastically reduce Lost Jurisdiction cases. These procedures include:

- The inclusion of a Unit Tracking Log for discharge review reports that are mailed to Case Records for processing. Unit Supervisors would have the ability to compare the tracking log to the Discharge Review Due reports they generate to ensure the reports have been submitted at the unit level.
- Development of a database for use by Case Records staff which will allow them to electronically track Discharge Review Reports received for processing. Reports not received within 20 days of the end of the 13<sup>th</sup>, 25<sup>th</sup>, or 37<sup>th</sup> month of continuous parole shall generate a compliance report to be distributed to the appropriate Regional Parole Administrator (RPA). The RPA will contact the assigned parole unit directing them to expedite a Discharge Report. As a fail safe, any Discharge Review Report not received at Case Records within 10 days of the noted periods shall generate a compliance report to be distributed to the Director and Deputy Director of DAPO, who will then ensure unit compliance.
- Parole Administrators are currently temporarily assigned to each Case Records unit. Case Records staff is to notify the Parole Administrator of any case who is within 5 days of potential Lost Jurisdiction. The Parole Administrator will take the necessary steps to immediately generate a report to either discharge or recommend retain. This step will remain in effect until the database is utilized by both case records locations and staff has been trained in the use of the reports to monitor cases.

***5. When parolees are discharged due to Lost Jurisdiction, a copy of the explanatory Activity Report (which includes documentation of parole period) or the memorandum of explanation should be forwarded to Case Record for inclusion into the C-Files. Additionally, the Parole Agents and Unit Supervisors should be held accountable for timely completion of the Discharge Reviews to include possible disciplinary action.***

DAPO partially concurs. As the OAC noted, the internal discharge codes BPTV, BPTNV and LOSTJUR are all codes used by CDCR to code "discharge by operation of law." The internal codes are all management tools to monitor our processes. The justifications requested from the field are an effort to understand why the LOSTJUR code was required to be utilized. This request for justification does not diminish the fact that the discharge was still in accordance with statute. As such, the justification memorandum would not be appropriate for incorporation into the C-File. However, DAPO concurs that this memorandum could be the basis for possible corrective



action when it is determined staff negligence, and not staff error, the miscoding of commitment offense, lost discharge review reports or other administrative or procedural errors was not the primary reason a case was lost due to operation of law.

## **Conclusion**

DAPO has been taking proactive steps to address several of the issues raised in this review. The draft policy and regulations are examples of the corrective action DAPO initiated prior to this recently completed internal audit. The immediate response of posting two assistant regional administrators at case records and the design and implementation of a database to track offenders to avoid lost jurisdiction is another example of instant response where a need is present since the audit started.

DAPO recognizes the value of an independent review of DAPO procedures and compliance with law and regulations and the recommendations that are an intended consequence of any audit. DAPO is confident the corrective steps we have taken, in conjunction with the recommendations put forward by the OAC will improve the integrity of the discharge process.